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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,347	12/29/2000	William D. Rupp	3660P019X3	8394

7590 06/09/2006  
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EXAMINER

PATEL, JAGDISH

ART UNIT PAPER NUMBER

3624

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/753,347	<b>Applicant(s)</b> RUPP ET AL.	
	<b>Examiner</b> JAGDISH PATEL	<b>Art Unit</b> 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 11, 12 and 15 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-5, 11, 12 and 15 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/23/06</u> | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This communication is in response to amendment filed 3/23/06.

#### ***Response to Amendment***

2. Claims 1, 11 and 15 have been amended. Claims 1-5, 11-12 and 15 are under examination.

#### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 11 and 15 have been considered but are moot in view of the new ground(s) of rejections.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 11 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Friedland et al. (US Pat. 6,449,601) (hereafter referred to as Friedland).

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Per claim 1, Friedland teaches a method of configuring a bid adjustment mechanism in an online auction, (bidder and auctioneer interfaces, p.12) comprising the steps of:

(a) displaying a bid adjustment mechanism configuration interface that allows a bidder to specify an adjustment for a bid without entering an amount of the bid (refer to col. 13 L 63- col. 14 L 43, “user interface shown in Fig. 9” “array of buttons used to establish a current bid, a bid increment and an asking bid” note that each parameter is established independent of each other, therefore, a bidder may specify an adjustment for a bid (i.e. bid increment) without entering an amount of the bid) and

(b) setting a bid adjustment value for the bid adjustment mechanism using the configuration interface such that when the bid adjustment mechanism is actuated, a bid is adjusted by the bid adjustment value set in the configuration interface.

(refer to col. 13 L 63- col. 14 L 43, this step is a result of step (a) and therefore inherent because the human proxy operating the DLA auction console updates status information about the auction as the auction proceeds ).

Claim 2: wherein the bid adjustment mechanism is a button on a graphical user interface displayed to the bidder.

(“the user interface is an array of buttons used to ..establish a bid increment” refer to the above citation).

Note that claims 11 and 15 are apparatus claims that correspond to method claim 1 and accordingly analyzed in the foregoing analysis.

***Claim Rejections - 35 USC § 103***

5. Claims 3-5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland as analyzed in claims 1 and 2 and further in view of Fisher.

Friedland fails to teach that the bid adjustment value comprises selecting a bid adjustment type associated with the bid adjustment value as recited in claims 3-5 and 12.

Fisher, in the same field of endeavor, however, teaches a bid adjustment type associated with the bid adjustment value which corresponds to an absolute value or a percentage of a previous bid (see col. 12 L 33+, bidding increment amount and percentage, noting that the increment amount is in Dollar amount).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Friedland in view of Fisher wherein a feature of bid adjustment type associated with the bid adjustment value is provided which corresponds to an absolute value or a percentage of a previous bidder because such an improvement would provide greater flexibility and convenience to the proxy bidder in adjusting bid for a wide range of bid values.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on 800AM-600PM M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jagdish N. Patel

(Primary Examiner, AU 3624)

6/7/06